#### REAL ESTATE COMMISSION MEETING

Heber M. Wells Building Room 210 9:00 a.m. February 15, 2012

#### **MINUTES**

## **DIVISION STAFF PRESENT:**

Jonathan Stewart, Division Director
Mark Fagergren, Education and Licensing Director
Kent Nelson, Chief Investigator
Dee Johnson, Assistant Chief Investigator
Jennie Jonsson, Hearing Officer
Xanna Hardman, Assistant Attorney General
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator
Charles Smalley, Investigator
Jill Childs, Division Staff
Amber Nielsen, Division Staff

## **COMMISSION MEMBERS PRESENT:**

Stefanie Tugaw-Madsen, Chair H. Thayne Houston, Vice Chair H. Blaine Walker, Commissioner Kay Ashton, Commissioner

## **GUESTS**:

Tammy Lund Shane Norris Kevin Swenson Sara Saylor Paul Naylor

The February 15, 2012 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Tugaw-Madsen conducting.

Commissioner Hancock was excused from the meeting this month.

## PLANNING AND ADMINISTRATIVE MATTERS

### Approval of Minutes

The minutes from January 18, 2012 were approved as written. Vote: Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Walker, yes. The motion passes.

#### **DIVISION REPORTS**

## DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart gave the Commission an update on legislation. The Division's bill,

HB191, received a favorable recommendation last week in the House Labor and Business Committee, and will now go to the House floor soon.

Another bill that might be of interest is SB42, which is the limitation on action to recover the deficiency on a short sale. This is sponsored by Senator Neiderhauser, and would make it so that an action to recover a deficiency is barred unless it is commenced no more than three months after the date of the recording of a release of mortgage or reconveyance of trust deed with respect to a secured property and results in a short sale of a property. So this will bring a short sale in line with what a foreclosure is now. This bill has passed all through the Senate and House Standards Committee.

Our Public Service Announcements (PSAs) have been running for a few weeks. They are also posted on the Division's website.

The Division is still preparing for our remodel which is less than a month away. Director Stewart wanted to remind everyone that from March 8 through March 16, 2012, we will be under construction. We ask for everyone to be patient with us, because the staff will be split in two different rooms, on two different floors. While we will still have access to telephones and computers, the staff might not be as efficient as we are now.

## ENFORCEMENT REPORT – Kent Nelson

Mr. Nelson said last month we had a large number of cases that came into the Division. In the month of January the Division received 47 complaints; opened 39 cases; closed 42 cases; leaving a balance of open real estate cases at 219. We still closed more than we opened, so the number is still dropping. Our investigators are making a determined effort to address any cases that are older, so you will see more progress as we go along updating the case loads.

Enforcement is currently working in our real estate field on a major criminal case that we started on a mortgage foreclosure flipping operation that has been going on for a number of years involving a large number of agents. It may take a while because we are subpoening a large number of bank records, but at some point it will result in a large indictment against quite a few licensees and companies who are taking advantage of people in foreclosure situations. We will continue to keep the Commission updated on this issue.

Stipulations for Review
Kelly and Melanie Liddiard
Turid V. Lipman
Matthew McFarland

Each of the respondents was offered the opportunity to appear today, but each has declined.

# <u>LICENSING/EDUCATION REPORT - Mark Fagergren</u>

Mr. Fagergren said from December 2011 to January 2012, 301 real estate licensees have let their licenses expire. There is still a downward trend, and hopefully it will come to an end. Of the 301 licenses that expired, 165 were active licenses and 136 were inactive licenses.

Commissioner Walker said that on a national average, there is one agent for every 200 people, and in Utah it is one agent for every 194 people. Commissioner Ashton asked if the related industries of mortgage and appraising have numbers that are dropping as well. Mr. Fagergren said in mortgage licensees are in their reinstatement period now and the numbers dropped dramatically last year, and are continuing to drop—but at a slower rate—than last year. The appraisers have maintained the same numbers for a long time, but we are now seeing their numbers drop. Some of the reasons are the ages of the appraisers, and their overall disheartened feelings about their profession. Mr. Fagergren said that he doesn't see a lot of residential appraisers that come up and say they are having a great year. Commercial appraisers seem to be doing well.

Vice Chair Houston asked where these statistics fit in the overall multiple-year picture of numbers of licensees. Mr. Fagergren said that he will do some checking and have those numbers for the next meeting.

Last month, Ms. Wall filled in for Mr. Fagergren, and talked about the Division's upcoming Caravan. Other than one location that we are still trying to be certain of, the locations and dates will be as follows:

Logan April 24 Bridgerland Applied Technology College

Park City April 26 Park City Marriott

Layton May 1 Layton Convention Center

In the past, we've used a bigger facility in Layton, and sometimes it is harder for people to see on a big screen. We got a smaller venue this time and we will be holding the meeting twice.

Utah County May 8 No confirmation where it will be yet

Moab May 15

Richfield May 16

St. George May 17 (2 meetings)

All of this information will be published in the next Division's newsletter, and also on our website. The Caravan will have a similar reservation system as last year. If someone reserves a seat but fails to attend without canceling at least three days

before the meeting, there will be a \$10.00 no-show fee.

# Stipulations for Review

Fric Allen Davis

Mr. Davis was offered the opportunity to appear today, but he has declined.

## COMMISSION AND INDUSTRY ISSUES

# <u>Discussion of Proposed Rules – Jennie Jonsson</u>

Ms. Jonsson said the Division has had a request for Agency Action Review from Ian Crowe. He has asked to speak to the Commission and request the suspension of his license be lifted. The Commission and Division called, and spoke with, Mr. Crowe at 9:30 a.m. until 9:38 a.m. The Commission will meet later today in an Executive Session and make a decision on Mr. Crowe's license.

Ms. Jonsson handed out a draft copy of the rules that have been discussed for the past couple of months. The draft covers trust account records for both real estate and property management trust accounts; qualification for licensure; registration of entities for both real estate and property management, and record requirements, etc.

A brief discussion regarding trust accounts and title companies was held.

There were a few minor suggestions and changes to the draft rule. Ms. Jonsson will make these changes and present it to the Commission for a vote in the next meeting.

A brief break was taken before the next hearing.

### **OPEN TO PUBLIC**

#### **INFORMAL HEARINGS:**

10:30 Craig Vierig – Disciplinary Action

Commissioner Walker disclosed that he knows Mr. Vierig. Mr. Vierig said that he has no problem with Commissioner Walker remaining for the hearing.

11:30 Michael T. Pines – Disciplinary Action Mr. Pines did not appear or call.

The Commission with concurrence from Director Stewart has entered a motion of default on Mr. Pines.

A motion was made to enter Executive Session for the sole purpose of discussing the character, professional competence, or physical and mental health of an individual. Vote: Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Walker, yes. An Executive Session was

held from 11:40 a.m. to 12:40 p.m.

### **OPEN TO PUBLIC**

Results of All Stipulations
Kelly and Melanie Liddiard - Approved
Turid V. Lipman - Approved
Matthew McFarland - Approved
Eric Allen Davis - Rejected

The Division has a pending hearing scheduled for April that may take an entire day. The Commission has agreed to meet a second time on April 17<sup>th</sup> to hear the case.

Ms. Jonsson will write a letter to Mr. Crowe informing him of the decision of the Commission on his license.

A motion was made to adjourn the meeting. Vote: Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Walker, yes. The meeting adjourned at 12:41 p.m.